



September 28, 1990

Reply To  
Attn Of: SO-125

Johnathan I. Feil  
Simburg, Ketter, Sheppard & Purdy  
Attorneys At Law  
2525 First Interstate Center  
Third and Marion  
Seattle, Washington 98104

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SUPERFUND BRANCH

Re: Request for Testimony by EPA Employee

Dear Mr. Feil:

The purpose of this letter is to inform you of the United States Environmental Protection Agency's (EPA) determination regarding your September 14, 1990 letter requesting the deposition of Neil Thompson, an EPA employee.

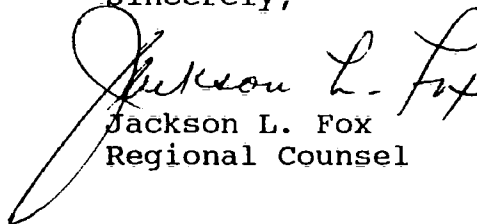
As you are aware, EPA regulations at 40 C.F.R. Part 2, Subpart C prohibit EPA employees from providing official testimony, either voluntarily or in response to subpoenas, in cases where neither EPA nor another federal agency is a party. This prohibition may be waived by the General Counsel or his designee if he determines that providing the testimony would "clearly be in the interests of EPA." See 40 C.F.R. § 2.404(a). I am the General Counsel's designee regarding requests or subpoenas directed to Region 10 employees.

Based on my understanding of the facts of this case, and after reviewing your letter dated September 14, 1990, I cannot determine that the testimony you seek would clearly be in the interest of EPA. I cannot therefore grant your request to depose Neil Thompson.

Pursuant to the Freedom of Information Act, you may request copies of EPA documents pertaining to this Site. Upon your request and where appropriate, EPA will authenticate these documents, for purposes of admissibility under 28 U.S.C. § 1733 and Rule 44 of the Federal Rules of Civil Procedure.

Please direct any further questions to Cynthia L. Mackey at (206) 442-1777.

Sincerely,

  
Jackson L. Fox  
Regional Counsel

USEPA SF



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cc: Cynthia L. Mackey, Assistant Regional Counsel  
Joe Harrington, Assistant U.S. Attorney  
Neil Thompson, Project Manager